



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-PP, OPC-, OPN, FFL, CNC, OLC, MNDCT, RP, LRE, CNR

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an order of possession for cause, for unpaid rent and the tenant has given written notice to end the tenancy pursuant to section 55;
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenants' applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

Both parties confirmed the landlord served the tenant in person with the notice of hearing package and the submitted documentary evidence in person on August 16, 2021. Both parties confirmed the tenant did not file or serve any evidence in response to the landlord's application.

Both parties confirmed the tenant did not serve the landlord with her notice of hearing package or the submitted documentary evidence. The tenant stated that she served the landlord with her amendment adding a dispute of a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord argued that no amendment was served. The tenant was not able to provide any proof of service for the amendment.

I accept the affirmed evidence of both parties and find that the tenant was properly served with the landlord's notice of hearing package and the submitted documentary evidence as confirmed by the tenant. I also find based upon the tenant's direct testimony that as the tenant failed to serve the tenant's notice of hearing package to the landlord that the tenant's original application is dismissed with leave to reapply for lack of service. On the tenant's amendment seeing an order to cancel the 10 Day Notice, I find on a balance of probabilities that the tenant failed to properly serve the landlord with the amendment. Leave to reapply is not an extension of any applicable limitation period.

Extensive discussions with both parties regarding the 1 month notice and the 10 Day Notice issued by the landlord were made. A review of the landlord's evidence submissions revealed that the landlord had only submitted a copy of the 1st page of a 1 month notice to end tenancy for cause dated July 5, 2021 and 2 duplicate copies of the 2nd page of a 10 Day Notice which states that the tenant failed to pay rent of \$800.00 that was due on July 1, 2021. The landlord stated that he had many issues regarding the uploading of evidence for his application. The landlord stated that he had attempted numerous times to contact an information officer at the Residential Tenancy Branch but was unable to due to wait times. The tenant stated that she had only received the partial copies as listed above during the hearing. Both parties were cautioned about the necessity of the incomplete copies of the 1 month notice and the 10 Day Notice.

Section 46 and 47 says a landlord may end a tenancy by giving notice to end the tenancy for unpaid rent and/or a number of reasons for cause. In the case before me

neither party has supplied a copy of the One Month Notice to End Tenancy for Unpaid Rent/Cause. I spent a large portion of the hearing explaining the crucial and vital nature of this document to both parties. The Notice is not a trivial piece of information. It is the foundation that a landlord relies on to assist in their application to end a tenancy when there is unpaid rent/cause. Both parties argued on the contents of the Notice(s) which were issued and for the basis for its issuance(s). The tenant is entitled to have full answer and defence of any allegation made against them as is required under the Natural Laws of Justice.

In this case, I find that without a basis from which both parties could make submissions and present evidence that the landlord's application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period. The merits of both notice(s) were not addressed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 01, 2021

Residential Tenancy Branch